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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-------------------------|
| 10/084,658 | 02/28/2002 | Ken Fukuta | NSUG:854 | 2489 |
| 6160 | 7590 | 12/16/2003 | EXAMINER | |
| PARKHURST & WENDEL, L.L.P. 1421 PRINCE STREET SUITE 210 ALEXANDRIA, VA 22314-2805 | | | | FIORILLA, CHRISTOPHER A |
| ART UNIT | | PAPER NUMBER | | |
| | | 1731 | | |

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/084,658 | FUKUTA ET AL. | |
| | Examiner | Art Unit | |
| | Christopher A. Fiorilla | 1731 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ogawa et al. (4,559,193).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al. (4,559,193) in view of Bonzo (4,557,773) for the reasons as set forth in the previous office action.

6. Applicant's arguments filed 9/24/03 have been fully considered but they are not persuasive.

With respect to the rejection of the claims under 35 USC 102(b) applicants argue:

The rejection of claims 1 to 4 and 6 under 35 USC 102 as anticipated by Ogawa et al. '193, if applied to the claims as amended, is respectfully traversed. Claim 1 has been revised to specify that the sealing slurry is filled into the cells through the holes pierced in the mask a quantity sufficient to seal the filled cells." The specification and the drawings clearly provide support for this additional feature of the invention.

In contrast, Ogawa et al. '193 clearly teaches the use of two different materials to seal the filled cells. See the discussion in the patent column 5 as well as patent claims and The Ogawa et al. '193 method requires dipping an end surface of a ceramic honeycomb structural body having a film attached thereto into a sealing slurry mixture, then "subsequently passing a kneaded pasty sealing material green body into the ends of the channels which have slurry adhering to" and firing the body, "whereby said adhered slurry and said kneaded pasty material seal the selected channels." (The quotes are taken from patent claim 1 in column 9.)

See also patent Figs. 7 and 8 and the related discussion. The instant claims patentably define over the reference method.

This argument is not persuasive. The examiner agrees with applicants' characterization of the disclosure. Note however, Ogawa et al. also discloses a process as claimed wherein only one material is introduced in to the channels. This process is described in the part of the disclosure describing the prior art. See e.g. col. 2, lines 1-10.

With respect to the rejection of the claims under 35 USC 103 applicants argue:

The rejection of claim 5 under 35 USC 103 as unpatentable over Ogawa et al. '193 in view of Bonzo '773 is also respectfully traversed. The secondary reference is cited to show

the use of an image processing process to detect cell positions. The reference, however, overcomes none of the deficiencies of Ogawa et al. 5193 discussed above and the rejection should be withdrawn as well.

This argument is not persuasive for the reasons as set forth above.

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Fiorilla whose telephone number is (703) 308-0674. Note that the examiner's phone number will be changed to (571) 272-1187 on or around December 18, 2003. The examiner can normally be reached on M-F, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 703-308-1164. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



**Christopher A. Fiorilla
Primary Examiner
Art Unit 1731**